

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

MARGARITO CANALES, and
BENJAMIN BARDZIK,

Plaintiffs

v.

LEPAGE BAKERIES PARK STREET LLC,
CK SALES CO., LLC and
FLOWER FOODS, INC.,

Defendants

CIVIL ACTION NO.: 1:21-CV-40065

*LEAVE TO FILE GRANTED ON
09/29/2021*

SUPPLEMENTAL AFFIDAVIT OF BENJAMIN BARDZIK

I, Benjamin Bardzik, hereby depose and state as follows:

1. I am one of the Plaintiffs in this case. I submit this Supplemental Affidavit based on the best of my personal knowledge and memory, and for the purpose of adding to the factual record with respect to Plaintiffs' Opposition to the Defendants' Motion to Compel Arbitration.
2. The work I have performed for the Defendants described in Paragraph 22 of the Complaint in this case, and in subsequent paragraphs, has consisted and still consists primarily of driving trucks delivering the Defendants' bread products from their warehouse to their customers along a particular delivery route, No. 8168.
3. This delivery work is essentially the same work I performed for the Defendants prior to 2018, when they classified me as an employee.

4. I spend a minimum of 50 hours per week driving on route No. 8168, every week not counting the occasional vacation day.
5. The remainder of my time spent working for the Defendants consists of supervising other individuals who drive trucks delivering the Defendants' bread products from their warehouse to their customers along two other delivery routes.
6. I spend approximately 20-30 hours per week doing that supervision; driving remains my primary responsibility, just as it was when I was classified as an employee by the Defendants.
7. The delivery routes, and the locations to which deliver, are determined by the Defendants.
8. The time and place of each delivery is determined by the Defendants.
9. The way in which I stock shelves is determined by the Defendants.
10. The bread products I deliver are manufactured and/or owned by the Defendants, and are delivered across state lines prior to my delivering them to the Defendants' customers.
11. During the period when I was an employee of the Defendants through the temporary staffing agency, I worked full-time for the Defendants and did not have any other job or occupation.
12. Likewise, during the period when I have been an employee of the Defendants with the title "independent distributor," I have worked full-time for the Defendants and did not have any other job or occupation.
13. During the entire time period when I worked for the Defendants, including while I was working through the temporary staffing agency and since I have been

classified as an “independent distributor,” I have delivered only the Defendants’ bread products and did not deliver any other products for any other company.

14. During the entire time period I have worked for the Defendants, including while I was working through the temporary staffing agency and since I have been classified as an “independent distributor,” I never advertised my delivery services or offered them to any other company or individual.
15. T&B Dough Boys, Inc., has no customers besides those designated by the Defendants, and we are not allowed to add customers to our route without the approval of the Defendants.

Subscribed and sworn to under the pains and penalties of perjury this 23rd day of September, 2021.

/s/ Benjamin Bardzik
Benjamin Bardzik